

STATEMENT OF REP. JOHN CONYERS, JR.
Courts, the Internet, and Intellectual Property Subcommittee
Hearing on “The U.S. Patent and Trademark Office:
Fee Schedule Adjustment and Agency Reform”
July 18, 2002

It is nice to have PTO Director Jim Rogan, a former member of this Committee, back again. He was appointed to a position that would bring anyone’s legal, management, and political skills to task, namely because of the various issues facing the PTO.

This user-funded agency is plagued with a diversion of its fees (\$162 million this coming year), a 400,000 patent application backlog, and patents being granted on inventions that would not have received such protection if they were subjected to more rigorous examination. Under Director Rogan’s stewardship, the PTO has done a commendable job of facing these issues head-on and coming up with a proposal it believes could resolve them once and for all.

At the same time, I do have concerns with how the PTO proposes to fix the problems. For instance, the PTO wants to raise patent and trademark fees, even doubling patent filing and examination services from \$740 to \$1550. The impact of this high increase is magnified by some of the PTO’s other proposals.

First, the impact of the increases is multiplied by the fact that the PTO does not address the fee diversion issue. In the past, the PTO – with the help of this Committee – has addressed fee diversion by trying to end the practice. Now, unfortunately, the PTO wants to take diversion as a given and factor it into new fee amounts.

I understand that our efforts to stop diversion have been unsuccessful, but the agency is trying to solve its budgetary problems by making its customers pay more. Not only does this ignore the rights of the customers,

but it also gives the diversion the imprimatur of the PTO, making it unlikely that the diversion will ever cease.

Second, the PTO plans to combine the fee increase with a proposal to perform less work in-house; more specifically, the PTO wants to outsource its patent search responsibilities. It seems to me that conducting thorough searches is an integral part of the PTO's examination role; we would be outsourcing how the PTO obtains some of information it relies upon when examining patents. At the same time, I am not certain how we would ensure that every search on every application was thoroughly done by the contractors.

Finally, the PTO would like to impose a reduction-in-force on its trademark side, and I am worried about the impact that such a reduction would have not only on the workers but also on the people and companies that rely upon the PTO's trademark examinations.

These are just some of the issues I hope we can consider as we move forward.